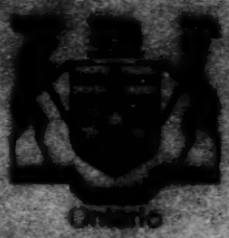

Standing Committee on Administration of Justice

Report on the 1988 Report of the Ontario Provincial Courts Committee

[illegible] Session, 34th Parliament
39 Elizabeth II

STANDING COMMITTEE ON
ADMINISTRATION OF JUSTICE

Ontario

LEGISLATIVE ASSEMBLY
ASSEMBLÉE LÉGISLATIVE

COMITÉ PERMANENT SUR
L'ADMINISTRATION DE LA JUSTICE

Queen's Park
August 1989

The Honourable Hugh Edighoffer, MPP,
Speaker of the Legislative Assembly.

Sir,

Your Standing Committee on Administration of Justice has the honour to present its Report and commends it to the House.

Robert V. Callahan, MPP
Chairman

91-04068/

STANDING COMMITTEE

ON ADMINISTRATION OF JUSTICE

MEMBERSHIP AS OF MONDAY, 8 MAY 1989

ROBERT V. CALLAHAN
Chairman

BOB CHIARELLI

HOWARD HAMPTON

RON KANTER

PETER KORMOS

STEVEN MAHONEY

DALTON McGUINTY

STEVEN OFFER

CLAUDIO POLSINELLI

ROBERT RUNCIMAN

NORMAN STERLING

Douglas Arnott
Clerk of the Committee

Susan Swift
Research Officer

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INTRODUCTION

On October 26, 1988 the Ontario Provincial Courts Committee Annual Report (Henderson Report) for the period April 1, 1987 to March 31, 1988 was referred to the Standing Committee on Administration of Justice pursuant to Standing Order 35(c) and to a letter of agreement between the Attorney General of Ontario and the Provincial Court Judges Association dated July 21, 1987. A copy of this letter appears as Appendix "C" to the Henderson Report.

The Committee held public hearings on May 15, 16 and 23, 1989. It heard from the two principal parties, the Provincial Courts Judges and Management Board of Cabinet. In addition to hearing from the Criminal Lawyers Association, the Canadian Bar Association of Ontario - Provincial Judicial Committee, and the past president of the Canadian Bar Association of Ontario, the committee also received written submissions on the Henderson Report.

The Committee wishes to thank all of the witnesses who appeared before the Committee and those who made written submissions.

In examining the issues and evidence of the Provincial Court judges salaries, benefits and allowances, the Henderson Committee undertook a difficult and laborious task. The Committee wishes to commend them for their considerable efforts in conducting the inquiry and in preparing a thoughtful and very useful Report.

RECOMMENDATIONS

The Committee notes that much of the evidence presented to it and the discussion during Committee deliberations concerned recommendations 3 through 8 of the Henderson Report. Having considered the Report together with the submissions of the witnesses, the Committee endorses all of the recommendations of the Ontario Provincial Courts Committee except recommendations 3, 4, 7, 8 and 28. In doing so, the Committee wishes to emphasize its' endorsement of the indexation of the Provincial Court Judges' salaries as provided in recommendation 6 of the Henderson Report.

1. Recommendations 3 and 4 - "Salary"

Considering all of the evidence, the Committee concurs with the salary adjustments announced by Management Board of Cabinet on May 5, 1989, including the retroactive increases of 4% for 1987 and 4.6% for 1988. The Committee further agrees that these adjustments should be effective for the year commencing April 1, 1989.

2. Recommendations 7 and 8 - "Pensions and Related Benefits"

The Committee views these recommendations as being crucial. However, it found that there was a great deal of conflicting evidence concerning possible cost implications of their implementation. It was noted that the Henderson Committee had faced the same problem and had concluded that they were not qualified to choose between the conflicting actuarial assumptions.

In view of the importance of these issues and the conflicting evidence regarding the cost implications, the Committee recommends that these two recommendations be specifically referred back to Management Board of Cabinet for further consideration.

3. Recommendation 28 - "Termination Benefit and Death Payment"

The Committee noted that these benefits have been accruing for sitting judges since their respective appointments and it is the expectation of these judges that the accrued benefits will be paid at the appropriate time.

It was also pointed out by Management Board of Cabinet that the implementation of this recommendation would result in a minimal cost saving.

In view of these reasons the Committee does not endorse recommendation 28 of the Henderson Report.

DISSENTING OPINION OF NORMAN STERLING, MPP AND PETER KORMOS, MPP

The Henderson Report, which was tabled in the Legislature on October 26, 1988, was brought forward as a matter to be considered by the Justice Committee by the insistence of the opposition parties in early February, 1989. Until that time the Government representative on the subcommittee of the Justice Committee who controls the agenda of the Justice Committee had expressed no urgency to deal with the Henderson Report.

On May 5, 1989 the Chairman of Management Board of Cabinet announced salary changes for Provincial Judges before the Justice Committee had a chance to deal with the Henderson Report. The recommendations in the report of the Justice Committee do nothing more than justify the actions taken by the Chairman of Management Board. Even though the Chairman of Management Board took action before our consideration, the Liberal majority were reluctant to show any independence.

It, therefore, appears to us that the review of the Report by the Justice Committee of the Legislature is nothing but a waste of time under the present majority Liberal Government. The Chairman of the Management Board has shown disrespect for the Committee in precipitating its work by making his announcement even though the Henderson Report was under active consideration.

The reference of the Report to the Committee was nothing more than a stalling tool in the hands of the Attorney General and the Chairman of Management Board.

We, therefore, feel that future Reports of the Ontario Provincial Courts Committee should be made public and placed before Cabinet for a response in a given period of time.

At best, it is unclear what function a Legislative Committee can fulfill in this process. It is patently obvious under this Government that the reference to the Justice Committee does nothing but prolong the process.

We believe that the Provincial Courts Committee undertook their work in a logical fashion and came to reasonable conclusions. We therefore, support each and every recommendation in the Henderson Report.

APPENDIX A

STANDING COMMITTEE

ON ADMINISTRATION OF JUSTICE

Order of Reference

The Committee met pursuant to its Order of Reference, Standing Order 35(c), to consider the Ontario Provincial Courts Committee Annual Report for the period April 1, 1987 to March 31, 1988 (Sessional Paper No. 338) (Tabled October 26, 1988).

APPENDIX B

STANDING COMMITTEE

ON ADMINISTRATION OF JUSTICE

Schedule of Hearings

May - June 1989

Monday, 15 May

3.30 p.m.

For the Provincial Court Judges of Ontario:

Paul French
Counsel

From the Canadian Bar Association:

Harvey Bliss
President

Howard Rubel
Chairman
Provincial Judiciary Committee

From the Criminal Lawyers Association:

Earl Levy
President

Tuesday, 16 May

3.30 p.m.

From Management Board of Cabinet, Human Resources Secretariat:

James R. Thomas
Assistant Deputy Minister
Employee Relations and Compensation Division

Phyllis Clark
Director
Pensions Policy Branch

Grace Ma
Senior Actuary
Actuarial Services Branch

Bill Rooke
Director
Benefits Policy Branch

Liisa Tienhaara
Senior Policy Co-ordinator
Employee Relations and
Compensation Division

From the Ministry of the Attorney General:

Keith Norris
Manager
Office of Judicial Support Services
Courts Administration Program

For the Association of Provincial Court Judges of Ontario:

Paul French
Counsel

Tuesday, 23 May

3.30 p.m. For the Provincial Court Judges of Ontario:

Paul French
Counsel

From the Wyatt Co.:

Martin Brown
Actuary

Tuesday, 6 June

3.30 p.m. Organization

Monday, 26 June

3.30 p.m. For the Provincial Court Judges of Ontario:

Paul French
Counsel

Tuesday, 27 June

3.30 p.m. Draft Report

Wednesday, 2 August

1.30 p.m. Draft Report